

CHAPTER NO. 490

HOUSE BILL NO. 1320

By Representative Kisber

Substituted for: Senate Bill No. 1457

By Senator Henry

AN ACT to amend Tennessee Code Annotated, Title 8, Chapter 44, relative to participation by electronic or other means of communication.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-44-108 is amended by deleting the existing language in its entirety and substituting instead the following:

(a) As used in this section, unless the context otherwise requires:

(1) "Governing body" refers only to boards, agencies and commissions of state government, including State Debt Issuers as defined in this section.

(2) "Meeting" has the same definition as that term is defined in Section 8-44-102.

(3) "Necessity" means: that the matters to be considered by the governing body at that meeting require timely action by the body, that physical presence by a quorum of the members is not practical within the period of time requiring action, and that participation by a quorum of the members by electronic or other means of communication is necessary.

(4) "State Debt Issuers" means the Tennessee State Funding Board, Tennessee Local Development Authority, Tennessee Housing Development Agency, Tennessee State School Bond Authority, and any of their committees.

(b) A governing body may, but is not required to, allow participation by electronic or other means of communication for the benefit of the public and the governing body in connection with any meeting authorized by law, provided that a physical quorum is present at the location specified in the notice of the meeting as the location of the meeting.

(1) If a physical quorum is not present at the location of a meeting of a governing body, then in order for a quorum of members to participate by electronic or other means of communication, the governing body must make a determination that a necessity exists. Such determination, and a recitation of the facts and circumstances on which it was based, must be included in the minutes of the meeting.

(2) If a physical quorum is not present at the location of a meeting of a governing body other than a State Debt Issuer, the governing body other than a State Debt Issuer must file such determination of necessity, including the recitation of the facts and circumstances on which it was based, with the Office of Secretary of

State no later than two working days after the meeting. The Secretary of State shall report, no less than annually, to the General Assembly as to the filings of the determinations of necessity.

(c) Any meeting held pursuant to the terms of this section shall comply with the requirements of the Open Meetings Law, codified in this part, and shall not circumvent the spirit or requirements of that law.

(1) Notices required by the Open Meetings Law, or any other notice required by law shall state that the meeting will be conducted permitting participation by electronic or other means of communication.

(2) Each part of a meeting required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting. Any member participating in such fashion shall identify the persons present in the location from which the member is participating.

(3) Any member of a governing body not physically present at a meeting shall be provided, before the meeting, with any documents that will be discussed at the meeting, with substantially the same content as those documents actually presented.

(4) All votes taken during a meeting held pursuant to the terms of this section shall be by roll call vote.

(5) A member participating in a meeting by this means is deemed to be present in person at the meeting for purposes of voting, but not for purposes of determining per diem eligibility. However, a member may be reimbursed expenses of such electronic communication or other means of participation.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 28, 1999


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 17th day of June 1999


DON SUNDQUIST, GOVERNOR